

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN Y. TANG,

Plaintiff,

v.

JIANJUN QIAO, et al.,

Defendants.

23-CV-8760 (DEH)

ORDER

DALE E. HO, United States District Judge:

On October 5, 2023, Plaintiff filed a Complaint against fourteen named Defendants and one Jane Doe Defendant. *See* Dkt. No. 1. The deadline to answer, move, or otherwise respond to the operative Complaint for five named Defendants—HSBC Canada, HSBC Holdings PLC, UBS AG Singapore Branch, UBS Group AG, and the Hongkong and Shanghai Banking Corporation Limited—is adjourned pending further order of the Court. *See* ECF No. 93, ECF No. 116. Three named Defendants—Jianjun Qiao, Shilan Zhao, and Yuxin Qiao (also spelled Yixin Qiao)—have answered. *See* ECF Nos. 96, 103-106. The remaining six Defendants have filed motions to dismiss. *See* ECF No. 83 (Defendants Geng & Associates, P.C., Ting Geng, and Sylvia P. Tsai (collectively, the “Geng Defendants”)); ECF No. 87 (Defendants HSBC Bank USA, N.A. and UBS Bank USA); ECF No. 94 (Defendant U.S. Bank N.A.). Those motions as fully briefed as of May 3, 2024.

Prior to filing their motion to dismiss, the Geng Defendants also filed an answer, which contained a counterclaim.¹ *See* ECF No. 46. On March 8, 2024, Plaintiff moved to dismiss the

¹ Although the Geng Defendants’ motion to dismiss under Federal Rule of Civil Procedure 12(b) is untimely, because that Rule states that a motion for failure to state a claim “must be made before pleading if a responsive pleading is allowed,” the Court will construe the motion as one for judgment on the pleadings under Federal Rule of Civil Procedure 12(c), which is governed by an identical standard as motions under Rule 12(b). *See Patel v. Contemporary Classics of*

Geng Defendants' counterclaim. *See* ECF No. 98. From the Court's review of the docket, the Geng Defendants did not file an opposition.

It is hereby **ORDERED** that if the Geng Defendants would like to file an opposition to Plaintiff's motion to dismiss their counterclaim, they may do so by **May 17, 2024**. If such an opposition is filed, Plaintiff may file a reply by **May 24, 2024**. If no such opposition is received, Plaintiff's motion to dismiss will be deemed fully briefed and adjudicated.

SO ORDERED.

Dated: May 6, 2024
New York, New York



DALE E. HO
United States District Judge

Beverly Hills, 259 F.3d 123, 126 (2d Cir. 2001); *accord Ezra v. Bristol-Myers Squibb Co.*, 784 F. App'x 48, 49 (2d Cir. 2019).